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Before the House Committee on Transportation and Infrastructure, Subcommittee on  
Coast Guard and Maritime Transportation

Mr. Chairman and other distinguished Members, I am honored to testify before you today.<sup>1</sup> In my testimony, I would like to (1) emphasize why secure ports are essential to the nation; (2) describe the significant security threats the U.S. faces today and in the future; and (3) propose steps that Congress take to improve the security of foreign-owned maritime infrastructure including revisions to the Maritime and Trade Security Act.

### **Maritime Security Matters**

Maritime trade is vital to the U.S. economy. Almost one-third of the U.S. gross domestic product (GDP) is derived from trade. As you know, 95 percent of American overseas trade traffics the maritime domain. According to the American Association of Port Authorities, \$1.3 billion worth of U.S. goods move in and out of U.S. ports every day. In addition, many major urban centers (more than half of the U.S. population) and significant critical infrastructure are in proximity to U.S. ports or are accessible by waterways.<sup>2</sup>

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<sup>2</sup> Maritime security also has a critical defense dimension. The vast majority of U.S. military forces and supplies projected overseas transit through U.S. ports. In fiscal year 2003 alone, for example, the U.S. Military Traffic Management Command shipped over 1.6 million tons of cargo in support of Operation Iraqi Freedom. Most military supplies and hardware move through only 17 seaports. Only four of these ports are designated specifically for the shipment of arms, ammunition, and military units through Department of Defense (DOD)-owned facilities. For an overview of the military's reliance on ports and associated security risks, see U.S. General Accounting Office, "Combating Terrorism: Preliminary

Ports can also be tempting for terrorists. As points of entry and exit, they are critical nodes that affect terrorist travel and transiting of material support or weapons. They might also be prime targets for terrorist strikes. The economic, physical, and psychological damage that would result from a significant terrorist attack targeting maritime commerce or exploiting America's vulnerability to sea strikes is difficult to estimate, but the stakes are high. A significant breakdown in the maritime transport system would send shockwaves throughout the world economy. In fact, in a worst-case scenario, a large attack could cause the entire global trading system to halt as governments scramble to recover. Drastic and inefficient solutions could also be put in place, such as the complete closure of some ports and duplicative and lengthy cargo checks in both originating and receiving ports.<sup>3</sup>

During the next decades, maritime commerce likely will become an even larger and more important component of the global economy. The future maritime system will be robust, yet fragile. Maritime shippers increasingly concentrate their traffic through major cargo hubs ("mega-ports") because of their superior infrastructure. In the United States, 50 ports account for approximately 90 percent of all cargo tonnage.<sup>4</sup> Their specialized equipment is essential for the loading and off-loading of container ships, which constitute a growing segment of maritime commerce. Today, U.S. seaports unload approximately 8 million loaded containers annually.<sup>5</sup> Analysts forecast the volume of global container traffic will double over the next 20 years.<sup>6</sup> The rising use of container shipping and mega-ports has lowered the costs and improved the reliability of maritime commerce, leading firms to rely increasingly on rolling inventories and just-in-time deliveries. These trends have produced significant economic benefits for many industries engaged in international commerce, but have also made individual companies in the supply chain more vulnerable to interruptions.<sup>7</sup>

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Observations on Weaknesses in Force Protection for DOD Deployments Through Domestic Seaports," GAO-02-955TNI, July 23, 2002. See also U.S. General Accounting Office, "Combating Terrorism: Actions Needed to Improve Force Protection for DOD Deployments Through Domestic Seaports," GAO-03-15, October 2002, pp. 5–10.

<sup>3</sup>A preliminary estimate in 2003 placed this cost at tens of billions of dollars, nearly \$60 billion for the U.S. alone. Organisation for Economic Co-operation and Development, "Directorate for Science and Technology and Industry, Maritime Transport Committee, Risk Factors and Economic Impact," July 2003, at [www.oecd.org/dataoecd/19/61/18521672.pdf](http://www.oecd.org/dataoecd/19/61/18521672.pdf) (October 29, 2004).

<sup>4</sup>U.S. Congress, House of Representatives, "Maritime Transportation Security Act of 2002," Conference Report, 107–777, p. 4.

<sup>5</sup>"Marine Insurers Contemplate Increased Security Regulations," *Claims Magazine*, December 2003, p. 12.

<sup>6</sup>William G. Schubert, Maritime Administrator, Department of Transportation, Testimony before the Committee on The Judiciary, Hearings on the Security of our Seaports, February 26, 2002, at <http://usinfo.state.gov/topical/pol/terror/02022701.htm>. (February 27, 2005)

<sup>7</sup>For a comprehensive discussion of these vulnerabilities, see Daniel Y. Coulter, "Globalization of Maritime Commerce: The Rise of Hub Ports," in *Globalization and Maritime Power*, edited by Sam J. Tangredi (Washington, D.C.: Institute for National Strategic Studies, National Defense University, 2002), pp. 133–142.

## Qualifying Maritime Threats

A special report prepared by the Maritime Security Working Group (chaired by The Heritage Foundation) was asked to address the long-term security threats to the United States in the maritime domain.<sup>8</sup> The group—consisting of experts from academia, research centers, the private sector, and government—concluded the major trends that will affect U.S. maritime security are:

- *Internal Threats from Rogue Actors.* The greatest vulnerability to maritime infrastructure may be internal threats, i.e., employees who have an intimate knowledge of operations and facilities and access to transportation and port assets.
- *The Growth of Maritime Criminal Activity.* Piracy, human trafficking, and drug smuggling will continue. Terrorists could mimic or partner with criminal enterprises.
- *The Lack of Visibility in Non-Commercial Maritime Activity.* Currently the United States lacks sufficient means to monitor maritime activity. Terrorists could capitalize on this failing in many ways, including mines and other underwater attacks, smuggling by private craft with small payloads delivered outside ports, or attacks by small craft.
- *The Maritime Domain as a Target and Facilitator of Threats against the Environment.* Opportunities for infectious diseases and other environmental threats carried by seaborne traffic will increase with greater maritime commerce.
- *Anti-Access Strategies a Real Possibility.* An enemy might attack vulnerable targets on U.S. territory as a means to coerce, deter, or defeat the United States.
- *Stand-Off Attacks from the Sea.* State and non-state groups will be capable of mounting short-range ballistic missiles and cruise missile attacks—possibly employing weapons of mass destruction—from U.S. waters.

The group found the challenges identified above as enduring, disturbing, and inadequately addressed.

## Misplaced Maritime Priorities

On the other hand, the group found that there were other threat scenarios that are often discussed as less plausible or that post-September 11 security regimes have made less likely. In particular, since 9/11, some security analysts argue that every container bound

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<sup>8</sup>James Jay Carafano, and Alane Kochems, eds. "Making the Sea Safer: A National Agenda for Maritime Security and Counterterrorism," Heritage *Special Report* No. 3, February 17, 2005, at [www.heritage.org/Research/HomelandDefense/sr03.cfm](http://www.heritage.org/Research/HomelandDefense/sr03.cfm).

for the United States should be inspected because one could possibly be used to smuggle a nuclear weapon or a “dirty” bomb (radiological dispersion device) into the country. To counter this threat, they propose spending billions of dollars on container and port security.

This argument fails on four counts. (1) The nuke-in-box is an unlikely terrorist tactic. If an enemy wanted to smuggle a bomb into the United States, a private watercraft would be a safer and more secure way to transport the weapon, either directly to the target (e.g., a port) or indirectly by landing it in Mexico and then driving it across the border. (2) While nuclear smuggling is possible, so are dozens of other attack scenarios. It is dangerously myopic to over-invest in countering one tactic when terrorists could easily employ another tactic. (3) Searching every container and hardening every port is an extremely inefficient and expensive way to stop terrorists from using cargo containers. (4) There is no apparent viable business case for many of the proposed solutions for “hardening” shipping containers or conducting 100 percent physical container inspections. These measures would provide only minimal utility at the cost of billions of dollars in new duties, taxes, and operating costs.

As a matter of common sense, the United States should not attempt to make every cargo container and port into a miniature Fort Knox. Securing trade requires a more comprehensive and effective approach than just putting up fences and gates, posting guards at ports, and inspecting all cargo containers as they enter the country. This approach fails on two counts: (1) It wastes security resources by inspecting things that are not a security risk. (2) It creates isolated, easily bypassed chokepoints to address specific (and unlikely) threats.

Efforts to protect trade should focus on improving security of the entire supply chain. Strengthening the U.S. maritime security regime is a good place to start.

### **Making the Seas Safer**

The Heritage Foundation’s maritime security working group has identified several areas that should be the centerpiece of U.S. effort to help secure the maritime enterprise. In addition to strengthening current programs,<sup>9</sup> the three most critical additional enablers to current efforts should be:

- *Fix the Coast Guard First.* U.S. Coast Guard operations are central to virtually every aspect of maritime security from enforcing ISPS to interdicting suspect

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<sup>9</sup> See, Alane Kochems, “GreenLane Maritime Cargo Security Act: A Good First Attempt,” January 26, 2006, Executive Memorandum #989, at [www.heritage.org/Research/HomelandDefense/em989.cfm](http://www.heritage.org/Research/HomelandDefense/em989.cfm).

cargo under the Proliferation Security Initiative. Fully funding the Coast Guard's modernization program, Deepwater, at \$1.5 billion per year is essential.<sup>10</sup>

- *Enhance Public-Private Information Sharing.* In particular, better commercial data must be submitted to the Automated Targeting System (ATS) that would facilitate higher quality risk assessments of cargo in the pre-vessel-loading security screening process. This data could include: better cargo descriptions; identification of seller and purchaser; the goods point of origin; country from which goods are exported; ultimate consignee; exporter representative and name of broker; and origin of container shipment.
- *Improve International Cooperation.* The U.S. National Security Strategy rightly calls for encouraging economic development through free markets and free trade and enhancing the capacity of developing nations to compete in a global economy. Concurrently, however, the United States is also rightly promoting international security regimes designed to prevent terrorists from attacking or exploiting global trade networks. Meeting these requirements is difficult not for the Dubai's of the world, but for developing countries that lack mature infrastructure, robust human capital programs, and adequate financing. Federal agencies have disparate programs to assist these countries in enhancing their maritime security. These programs are not synchronized with each other or with our allies in Europe or Asia. Congress should begin to address this issue by require the General Accountability Office to inventory and assess the effectiveness of the various U.S. program and their international counterparts.<sup>11</sup>

In addition to these efforts, the Congress should take appropriate measures to address concerns over foreign-owned maritime infrastructure in the United States.

### **Assuring Surety in Foreign-Owned Infrastructure**

The sale of a British-based company which controls cargo handling operations at number of U.S. facilities—including six major U.S. ports—to Dubai World Ports, a government-owned company in the United Arab Emirates, has raised many concerns. While a review of the facts suggests no apparent security issues,<sup>12</sup> these concerns do reflect the importance of ensuring that the U.S. government has undertaken all reasonable efforts to make the seas safer.

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<sup>10</sup> Statement of Dr. James Jay Carafano, Senior Research Fellow, The Heritage Foundation, Before the Senate Committee on Commerce, Science, and Transportation, March 24, 2004, at [www.heritage.org/Research/HomelandDefense/tst032404a.cfm#\\_ftn2](http://www.heritage.org/Research/HomelandDefense/tst032404a.cfm#_ftn2).

<sup>11</sup> James Jay Carafano, and Ha Nguyen, "Homeland Security and Emerging Economies," Heritage Backgrounder #1795, September, 14, 2004, at [www.heritage.org/Research/HomelandDefense/bg1795.cfm](http://www.heritage.org/Research/HomelandDefense/bg1795.cfm)

<sup>12</sup> James Jay Carafano and Alane Kochems, "Security and the Sale of Port Facilities: Facts and Recommendations," WebMemo #997, February 22, 2006, at [www.heritage.org/Research/HomelandDefense/wm997.cfm](http://www.heritage.org/Research/HomelandDefense/wm997.cfm).

The Maritime Transportation and Security Act (MTSA) of 2002 did not consider the sale of maritime infrastructure to or between foreign-owned firms operating at U.S. ports. Congress might well consider what revisions to this law might be appropriate. These could include require:

- The company facility security officers at U.S. ports to be U.S. citizens, successfully complete a suitable background investigation, and be qualified to receive a transportation worker identification credential (TWIC);
- A mandatory review of the company security plan by the U.S. Coast Guard prior to the transfer of ownership;
- Notice after the transfer of ownership of any proposed material changes to the security plan, as well as committing to meet with U.S. officials to review changes prior to implementation; providing relevant information required to evaluate the changes; and addressing security concerns before the changes are implemented;
- Committing to reasonable steps to assist and support any federal, state, or local law enforcement agencies in conducting law enforcement activities related to facilities or services provided by the company in the United States;
- Disclosing information on the design, maintenance, or operation of U.S. facilities or operations as they relate to a law enforcement investigations;
- Providing any relevant records in the United States involving matters relating to foreign operations of the company that relate to a law enforcement investigation;
- Committing to participation in the Customs–Trade Partnership Against Terrorism (C–TPAT);<sup>13</sup>
- Establishing penalties for non-compliance with the above measures;
- Applying these requirements to any transfer of critical maritime infrastructure whether the gaining company is U.S. or foreign-based; and
- Requiring that major U.S. seaports establish intelligence and information-sharing fusion centers (Joint Operations Center) similar to the pilot-project Seahawk at the port of Charleston, South Carolina, and requiring that the centers be funded equitably and jointly by all public and private stakeholders at the port.

Port facilities are just one of many aspects that should be considered in developing a comprehensive maritime security regime. The United States should approach cargo and port security from the perspective of a complex global system rather than attempting (and failing) to make ports and containers impervious to terrorist threats. Ports are just one part of a system, designed to move people and things quickly in immense volumes.

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<sup>13</sup> The Customs–Trade Partnership Against Terrorism (C–TPAT), another CBP program, allows companies that have taken voluntary steps to secure their containers and supply chains to move more quickly through the inspection process and undergo fewer inspections. This program gives companies incentives to tighten their supply-chain practices, improving overall security. It creates a win-win situation for both U.S. trade security and the companies that comply. See, U.S. Customs and Border Protection, “Securing the Global Supply Chain,” at [www.cbp.gov/linkhandler/cgov/import/commercial\\_enforcement/ctpat/ctpat\\_strategicplan.ctt/ctpat\\_strategicplan.pdf](http://www.cbp.gov/linkhandler/cgov/import/commercial_enforcement/ctpat/ctpat_strategicplan.ctt/ctpat_strategicplan.pdf).

The best way to secure a port is to keep bad things and bad people out of the port to begin with. And that means securing the system, not the port. Modifications to MTSA, such as those proposed here, should be designed to make port security an integral and useful component to securing the maritime domain—and not a misguided attempt to turn America’s ports into mini-Maginot lines.

### **Winning the Long War**

President George W. Bush was right to suggest that we are engaged in a long war in his State of the Union Address. It is an important distinction. Protracted conflicts like the Cold War or the War on Global Terrorism require different kinds of strategies—strategies that place as much emphasis on sustaining the capacity of the state to compete over the long term as they do on diminishing the enemy.

Good long war strategy requires meets four equally compelling priorities: (1) providing security; (2) promoting economic growth; (3) safeguarding liberties; and (4) winning the war of ideas. Each has relevance to the maritime domain.<sup>14</sup> This Committee and Congress need to insist that the Bush Administration implement measures to meet each of these priorities, not trading one off for another. This criterion should serve in evaluating *any* security issue, including protecting America’s maritime infrastructure in the United States

Thank you again for the opportunity to address this vital question.

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<sup>14</sup>James Jay Carafano and Paul Rosenzweig, *Winning the Long War: Lessons from the Cold War for Defeating Terrorism and Preserving Freedom* (Washington, D.C.: The Heritage Foundation, 2005).